



Appeal Decision

Hearing (Virtual) held on 27 February 2024

Site visit made on 28 February 2024

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 March 2023

Appeal Ref: APP/U2235/W/23/3331817

Forsham House, Forsham Lane, Sutton Valence, Kent ME17 3EW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Cloverdown Ltd against the decision of Maidstone Borough Council.
 - The application Ref 23/500230/FULL, dated 10 January 2023, was refused by notice dated 25 April 2023.
 - The development proposed is care village comprising an 87 bed care home and 12 assisted living apartments with doctors' consulting room, car parking, landscaping and associated development.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Cloverdown Ltd against Maidstone Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. A planning obligation has been submitted which includes mechanisms which seek to provide biodiversity net gain (BNG), travel plan monitoring, occupancy restrictions, a minibus scheme, a GP consulting room scheme and an open space contribution. I will return to these matters later in this decision.

Main Issue

4. At the hearing the Council agreed that, following discussions around the planning obligation, BNG was no longer a main issue in dispute between the main parties.
5. Therefore, the main issue is whether the site would be a suitable location for the proposed development with particular regard to; the character and appearance of the area, the accessibility of the site by sustainable transport modes, and development plan policy.

Reasons

Whether the site is a suitable location for the proposed development

Character and Appearance

6. The appeal site is open land which is currently part of the large mainly lawned garden associated with Forsham House. It is generally surrounded by agricultural land. This results in an open, green character to the appeal site and its surroundings. There is some limited development close to the site including polytunnels and a handful of buildings including a terrace of 3 modest houses at Forsham Cottages and some agricultural buildings. The size, scale and use of the surrounding built form results in an overall rural character to this area.
7. The Maidstone Landscape Character Assessment (2013) describes that the site is located in the Low Weald Special Landscape Area, and the Headcorn Pasturelands Landscape Character Area. The key characteristics of this area include low lying landscape, enclosed pasture with sparse development. The undeveloped grassed nature of the site makes a positive contribution to these features.
8. To the east there is a cluster of housing, which includes the built out local plan housing allocation H1 (Brandy's Bay), with mainly two storey houses, as well as the allotments, play area and recreation ground. This is clearly separated from the site by the main route along Headcorn Road and appears visually distinct to the appeal site. As such this area is notably separate from the appeal site and its surroundings. The village of Sutton Valence is to the north. The open land along Headcorn Road, and along South Lane, with infrequent built form provide a clear separation between the appeal site and the village.
9. The open green appearance of the appeal site makes an important positive contribution to its characteristic countryside surroundings. It is clearly distinct from the village of Sutton Valence and the housing on the opposite side of Headcorn Road.
10. The appeal scheme would introduce a 2-3 storey building across a substantial footprint which, along with car parking and accesses, would result in development occupying the majority of the site. The elevation to Forsham Road would appear as two storeys, and an area of single storey development would separate the two taller elements to this edge of the site. The design would include gables and materials such as brick and black board cladding and oast house styling which are found locally. Due to the change in site levels, the overall ridge height would be no taller than Forsham House.
11. Nevertheless, this would be a bulky residential institution building across a large footprint. This scale would be visually jarring in this location, characterised by its countryside surroundings including limited rural built form. The developed features of the access and car parking would further emphasise the extent of urban development. The appeal scheme would significantly undermine the open green character of the site which would unacceptably erode the rural character and appearance of the surrounding area. As such the development would be an overly dominant urban form in this rural setting and would harmfully erode the open green character.
12. Due to the intervening buildings and vegetation the site would not be prominent in wider views including those from the Greensand Way.

Landscaping has also been proposed with screening to the boundaries. Some of this is outside the red line boundary to the site. Even if it could be provided to the extent shown in the submitted evidence, the development would be likely to be visible above the planting, and when trees are not in leaf. The urban feature of the access and car parking would also be clearly visible. The development would be seen by occupants of Forsham Cottages, from the public footpath to the south of the site and those passing along Forsham Road and Headcorn Road. As such, although localised and with receptors along the roads being transient, this harm would be experienced.

13. Therefore, the proposed development would result in a serious harmful effect on the character and appearance of the area.

Accessibility

14. There is a filling station and a shop which have an unlit but paved access along Headcorn Road. There is also unlit but paved access up the hill into the village of Sutton Valence where there are shops and services including pubs, a church, a village hall, mobile library services, medical practice and school. There is also a regular bus service between Maidstone and Tenterden with a bus stop around 200m from the site. The planning obligation seeks to provide a minibus service which would provide a journey to work service for staff and would accommodate shift patterns. The travel plan seeks to encourage the use of these options. The site is in a rural area where opportunities to maximise sustainable transport vary from urban areas.
15. Occupants of the care home would have everyday facilities on site. At the hearing the appellant stated that the average age for occupants of assisted living accommodation is 83 and for care homes this is 87. However, these units could be occupied by those aged 55 with minimal care needs. Furthermore, the assisted living units are designed for independent living and include kitchens. As such, although residents are likely to generate less trips than those in C3 dwellings, accessibility to services remains important.
16. The nearby bus service, minibus and areas of housing nearby mean that employees and visitors may travel to the site on foot, cycle or using public transport. However for occupants, whilst the bus may provide an alternative to some journeys, given the distance between the site and the village centre it is unlikely that occupants of the proposed accommodation would walk to the facilities available in Sutton Valence. Particularly after dark as the path is unlit or for those who are less able. The filling station and shop would provide for a very limited range of shopping needs. As such it is likely that occupants would rely on the private car.
17. My attention has been drawn to applications for dwellings elsewhere along Headcorn Road¹ and at Brandy's Bay where it is put to me that the locations were considered to be sustainable. Whilst I am provided with limited information of the details of these cases, these applications were for C3 dwellings and are therefore notably different to the development proposed. In any case, each proposal should be determined on its own merits.

¹ 19/506386/FULL, 14/500606/FULL

18. Therefore the proposed development would result in an unacceptable reliance on the private car for occupiers. As such the site would not be a suitable location for the proposed development with regard to accessibility.

Development Plan

19. Policy SS1 of the Maidstone Borough Local Plan (2017) (LP) seeks to direct development to the existing settlements. In other locations protection will be given to the rural character of the borough and small scale employment opportunities will be permitted at appropriate locations. Policy SP17 of the LP requires that in the countryside development proposals will only be permitted if they accord with other policies and would not result in harm to the character and appearance of the area.
20. The appeal site is outside the built area defined in the LP and therefore in the countryside for the purposes of the development plan. Consequently, it would be contrary to Policy SS1 of the LP in this regard. Whilst there may be other areas of housing with a functional relationship to the village, it is not the purpose of this appeal to amend settlement boundaries. I have considered the visual relationship and the accessibility of the site to Sutton Valence village elsewhere in this decision.
21. The proposed development would provide some employment, and is predicted to generate the equivalent of just over 100 full time jobs. However, taking into account the principal use of the site as residential, the scale of the employment that would be generated and the harm to the character and appearance of the area, described above, the proposed scheme does not represent small scale employment in an appropriate location. Furthermore, it can be seen above that there would be harm to the character and appearance of the area and therefore the proposed development would also be contrary to Policy SP17 of the LP.
22. Policy DM14 sets out the Council's approach to the provision of nursing and care homes and requires that they should be within the defined boundaries of the urban area as well as not adversely affecting the character of the locality. For the reasons above, the development is contrary to this policy.
23. Maidstone Borough Council has a Regulation 19 Draft Local Plan for Submission Document Oct 21 (Draft LP) and I understand that it has reached the stage that the consultation on the main modifications has closed, although the results were not shared with me. Emerging policy LPRHOU7 of the Draft LP relates to specialist residential development including care homes. It states that such uses would be permitted subject to satisfying certain criteria. These include that the site is located adjacent to the settlement boundary. There was discussion at the hearing about whether the Draft LP included a settlement boundary for Sutton Valence. However, even if it were within the settlement boundary, given the stage that the Draft LP has reached, based on the evidence before me, there is a lack of certainty that these policies would be adopted in the form they are presented. Furthermore, for the reasons above the development would not satisfy the criteria relating to accessibility by public transport or its affect on the character of the locality. Therefore, it is necessary that I afford greater weight to the adopted development plan position at this stage.
24. Therefore the site would not be a suitable site for the proposed development with regard to the development plan.

Summary

25. I have found serious harm to the character and appearance of the area. That the site would not be suitably accessible by sustainable modes of transport with occupants unacceptably reliant on the private car. Furthermore, the site would not be a suitable location for the proposed development in terms of the development plan. Taking these numerous matters together the harm is very significant.
26. Therefore, the site would not be a suitable location for the proposed development. As such it would be contrary to policies DM14, SS1 and SP17 of the LP for the reasons set out above. As well as policies DM1 and DM30 of the LP which require that the proposed development in this location would not harm the character and appearance of the area, and would be a high quality design including a positive response to the character of the area, landscape and local distinctiveness.

Other Matters

Housing for older people

27. The proposed development would provide 87 care home beds and 12 assisted living apartments. The planning obligation secures that these units would be occupied by people over 55 only with a requirement for provision of care. This is necessary in ensuring that the development would continue to be occupied in the terms that have been assessed.
28. The development would be a modern, large, care home. All rooms would have ensuite wet room facilities and it would be a dementia friendly design. It would provide communal facilities such as a hair salon, gym and library as well as communal lounge and dining areas. A coffee shop and restaurant would also be open to the public.
29. It was agreed that there is an unmet need for housing for older and disabled people in the Borough. The extent of the undersupply varies between the parties. The Council relies on the Authority Monitoring Report 2022-2023 (2023) (AMR) which states that against a target of 588 bedspaces to be delivered by 1st April 2022, 356 had been delivered across the Local Authority Area. Whilst the appellant's Planning Needs Assessment (2022) predicts a deficit to 2031 of 348 standard bedspaces and 782 for those with modern ensuite wetrooms within a 10 mile catchment area. The assessment raises concerns that this may increase if older, smaller and non-purpose-built homes were to close. Therefore there is a clear ongoing need in this regard.
30. The LP does not allocate sites for care homes and therefore any future development would be on unallocated sites. Although some bedspaces have been delivered, the AMR sets out that this is below the target. The appellant has submitted an Alternative Site Assessment (2022), which concludes that no alternative sites are suitable, sustainable, achievable and available within 10 miles from the subject site.
31. Consequently, the proposed development would make a positive contribution towards the provision of care home spaces for which there is a clear, ongoing need in this area. Furthermore, there is no clear alternative as to where these places will be provided. As such, the provision of housing for older and disabled people is a significant benefit of this scheme.

32. The development would also provide the social and economic benefits associated with the provision of this housing, including on site job creation of a predicted 102 full time jobs and spend from future residents in the local economy. It is likely that the occupants who move into this care home would move from dwellings which would consequently become available. I am not provided with detailed evidence regarding the likelihood of this occurring in this case. Nevertheless, the proposed development is likely to result in family homes becoming available. These benefits would be moderate.
33. A dementia friendly design is proposed, however there is nothing before me to secure the site as a specialist dementia care home. As such any reduction to the cost of this NHS service in this regard is not secured.

Biodiversity

34. The planning obligation would secure 10% BNG off site. At the hearing the Council confirmed that it was satisfied that this could be achieved, and this would overcome their reason for refusal on this matter. A condition which would secure on site biodiversity enhancement has been suggested by the Council. However, given that the obligation would secure a sufficient amount of BNG, this condition would not be necessary.
35. The BNG would be a benefit of the scheme, and it exceeds the quantum required for this development. However, it is likely that there would be an on site loss in biodiversity. As such, overall the benefits in this regard would be modest.

Planning Obligation

36. The planning obligation includes contributions towards open space and monitoring. I am provided with suitable evidence in this case that these are necessary, relevant and related in scale and kind in order to mitigate the impacts of the proposed development on the relevant services. The provisions of occupancy restrictions, BNG and a minibus scheme are discussed above.
37. The obligation would secure a GP consulting room scheme which would provide space for GPs to operate on site. It was explained at the hearing that the increased number of patients from the development could allow the local practice to request additional funding/staffing albeit this additional capacity is not secured as part of the appeal scheme. Therefore the GP consulting room scheme would be required to mitigate the effects of the proposed development on health services.
38. Nevertheless, other than BNG discussed above, these provisions are required to mitigate the effects of the development. As such their overall effect would be neutral.

Planning Balance

39. The proposed development would provide accommodation for older and disabled people for which there is an unmet need in this area and this is a significant positive benefit of the scheme. Furthermore, the associated social and economic effects and provision of off site BNG would be modest benefits. As such, taken together, the benefits of the proposed development would be significant.

40. However, the proposed development would result in serious harm to character and appearance, would be outside the settlement boundaries and would result in the occupants' reliance on the private car. As such it would be contrary to the development plan in these regards. Together this would result in very significant harm.
41. As such, even though the proposed development would provide significant benefits, these would not outweigh the very significant harm identified above and it would be contrary to the development plan as a whole.

Conclusion

42. The proposal would not accord with the development plan and there are no other considerations to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that this appeal should be dismissed.

H Miles

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

C Bell
R Crandon
M Magee
H Rosier
A Singh

FOR THE LOCAL PLANNING AUTHORITY:

R Clapp
S Scott

INTERESTED PARTIES:

A Probert
N Read

DOCUMENTS

Maidstone AMR 2022-2023 FINAL
Pages from LPR-Regulation-19-Document-25.01.21-Final Copy
Forsham House Recommended Conditions 27.02
Draft S106 Undertaking V4
Draft Section 106 Agreement V6